

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

PATTY BEALL, MATTHEW	§	
MAXWELL, TALINA MCELHANY AND	§	
KELLY HAMPTON, individually	§	
and on behalf of all other similarly situated;	§	
Plaintiffs,	§	2:08-cv-422 TJW
	§	
	§	
	§	
	§	
TYLER TECHNOLOGIES, INC. AND	§	
EDP ENTERPRISES, INC.	§	
Defendants.	§	

**DEFENDANTS' MOTION FOR LEAVE TO FILE DEFENDANTS' SURREPLY IN
OPPOSITION TO PLAINTIFFS' MOTION FOR CERTIFICATION OF COLLECTIVE
ACTION AND REQUESTS FOR NOTICE TO POTENTIAL PLAINTIFFS PURSUANT
TO SECTION 216(b)**

Defendant Tyler Technologies, Inc. (“Tyler”), by and through its attorneys, files its Motion for Leave to file its Surreply in Opposition to Plaintiffs’ Motion for Certification of Collective Action and Request for Notice to Potential Plaintiffs Pursuant to Section 216(b) (“Surreply”) on behalf of itself and on behalf of Defendant EDP Enterprises, Inc. (“EDP”), as its successor-in-interest, (collectively, “Defendants”), and shows the Court as follows:

Contemporaneously herewith, Tyler is filing Defendants’ Surreply. While the Local Rules permit the filing of a surreply brief to respond to issues raised in a reply brief, the Court’s March 6, 2009 Order, which outlines the deadlines for briefing related to Plaintiffs’ motion for conditional certification, does not contemplate the filing of a surreply. Accordingly, Defendants seek leave from the Court to file their Surreply. A Surreply is appropriate in this case because Plaintiffs attached new evidence to their Reply Memorandum in Support of Motion for Certification of Collective Action and Request for Notice to Potential Plaintiffs Pursuant to

Section 216(b) ("Reply"). Accordingly, Defendants desire the opportunity to respond to the additional evidence presented in Plaintiffs' Reply.

WHEREFORE, PREMISES CONSIDERED, Defendants request that this Court grant it leave to file its Surreply.

Respectfully submitted:

/s/ Paulo B. McKeeby
Paulo B. McKeeby
Texas Bar No.: 00784571
paulo.mckeeby@morganlewis.com
Joel S. Allen
Texas Bar No.: 00795069
joel.allen@morganlewis.com
Sharon Fast Fulgham
Texas Bar No.: No. 24045901
sfulgham@morganlewis.com

MORGAN, LEWIS & BOCKIUS LLP
1717 Main Street, Suite 3200
Dallas, Texas 75201-7347
phone - 214.466.4000
facsimile - 214.466.4001

Deron R. Dacus
Texas Bar No.: 00790553
derond@rameyflock.com

RAMEY & FLOCK P.C.
100 East Ferguson, Suite 500
Tyler, Texas 75702
phone – 903.597.3301
facsimile – 903.597.2413

ATTORNEYS FOR DEFENDANTS
TYLER TECHNOLOGIES, INC. AND
EDP ENTERPRISES, INC.

CERTIFICATE OF CONFERENCE

This is to certify that counsel for Defendants conferred with counsel for Plaintiffs on June 4, 2009, regarding the contents of this Motion. Plaintiffs are opposed.

/s/ Paulo B. McKeeby _____

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing has been served via the Court's electronic filing system on this 9th day of June, 2009, as follows:

John D. Sloan, Jr.
Laureen F. Bagley
101 East Whaley Street
P.O. Drawer 2909
Longview, Texas 75606

Alexander R. Wheeler
Jason Paul Fowler
R Rex Parris Law Firm
42220 10th Street West, Suite 109
Lancaster, CA 93534-3428

John P. Zelbst
Chandra L. Holmes Ray
Zelbst, Holmes & Butler
P.O. Box 365
Lawton, OK 73502-0365

/s/ Paulo B. McKeeby _____